

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 1424 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

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GURVINDERSINGH KULDIPSSINH

Versus

STATE OF GUJARAT

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Appearance:

MR YS LAKHANI for Petitioners

MR KP RAVAL APP for Respondent No. 1

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CORAM : MR.JUSTICE M.H.KADRI

Date of decision: 05/05/98

ORAL JUDGEMENT

Rule. Mr. K.P.Rawal, learned APP, waives service of Rule on behalf of respondent No.1.

At the request of the learned advocates appearing for the parties, the application is heard today.

By means of filing this application under Section 482 of the Code of Criminal Procedure, 1973, ( to be referred to as " the Code ") the petitioners have prayed to quash and set aside the complaint lodged by respondent No.2, being C.R.No.5128/98, registered at Anand Division Police Station, Dist : Kheda, for the offences punishable under Sections 70 (A) and 83 of the Bombay Prohibition Act, 1949. The matter was placed for admission hearing before this Court on March 5, 1998. After considering the submissions advanced at the bar by the learned advocate for the petitioners, notice was issued to the respondents making it returnable on March 10, 1998. The respondents have been duly served. The averments made in the application are not controverted by any of the respondents.

It is an admitted position that similar such complaints have been quashed by the High Court in :

- (i) Misc.Criminal Application No.482 of 1995, decided on February 10, 1995, by the Court ( Coram : R.A.Mehta, J.)
- (ii) Special Criminal Application No.1222/91, decided on September 6, 1991 by the Court ( Coram : J.U.Mehta,J.)
- (iii) Misc.Criminal Application Nos. 2785/91, 2786/91 & 2787/91 all decided on August 25, 1993, by the Court ( Coram : N.J.Pandya,J.)
- (iv) Misc.Criminal Applications Nos. 4472, 4473, 4488, 4489 and 4490 all of 1993, decided on September 3, 1993, by the Court ( Coram : N.J.Pandya,J.) and
- (v) Misc.Criminal Application No.6715 of 1997 decided on November 24, 1997, by the Court ( Coram : N.N.Mathur, J. )
- (vi) Misc.Criminal Application No.579 of 1998 decided on February 26, 1998, by the Court ( Coram : M.H.Kadri, J.)

Having regard to different orders passed by the High Court which have been quoted above, the following order is passed.

- (1) Complaint, lodged by respondent No.2, being C.R. 5128/98 , registered at Anand Division Police Station, Dist : Kheda, is hereby quashed.
- (2) The muddamal goods attached from the Truck in question be released to the petitioners on their undertaking to the Court that the goods shall not be stored or used or consumed or sold in Gujarat Territory, and will be taken to Maharashtra.
- (3) the petitioners shall carry the goods in the truck in question under police escort to be given by the police authorities at the cost of the petitioners.
- (4) The Truck bearing registration No.HR 38 B 3807 shall be released in favour of the petitioners after proper verification.

Rule is made absolute to the extent indicated hereinabove. Direct service is permitted.

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